

MINUTES OF THE TYNGSBOROUGH CONSERVATION COMMISSION MEETING

January 24, 2006

Present

HJ: Henry Jungmann, Chairperson
RS: Robert Sherburne, Vice Chair
JZ: Jeanne Zarba
CH: Cynthia Hanna

JK: Jeff Kablik
LG: Lucy Gertz
FZ: Frank Zarba

LC: Lori Capone, Director
GC: Gloria Clancy, Clerk

Absent

BL: Brian Logue, Associate Member

7:00 Meeting opened by Henry Jungmann, Chairperson, and introduction of Commission Members and staff.

7:02 Eric Gardner – 72 Progress Avenue – Notice of Intent: (Map 13, Parcel 46) (Continued from 10/25/05, 11/8/05, 12/13/05 & 1/10/06) Proposed construction of a commercial building, bituminous pavement, landscaping, grading and associated utilities within the 100 ft buffer zone. Proposed filling of local jurisdictional wetland. Matt Hamor of Polaris Engineering Corp. explained that although Steve Eriksen of Norse Environmental Services Inc. had represented the applicant at the last meeting, Steve was unable to attend. Polaris Engineering is the company that did the revised plan, so he addressed the changes made as a result of our consultant review up to this point. He said there are still some issues that they are working together on. He pointed out the expanded replication area and drainage structures and detention ponds. He answered questions from the members regarding slope, grading, road run-off, and proximity of replication area to 50' and 30' setback lines. He told them that Steve Eriksen would be submitting details of replication. LC commented that she spoke with Mr. Eriksen before the meeting and he will be proposing to reestablish the *30'-no disturb zone* with plantings as it is necessary to disturb this area to create the replication. As there were no further member comments HJ asked for abutter comments. There were none.

JK: Motion to continue this hearing until February 14 at 7:45 P.M.

RS: 2nd.

Unanimous (6-0).

7:15 Merrimack Landing Realty Trust – 91 & 95 Middlesex Road – Notice of Intent: (Map 27, Parcel 2, Lot 0 & 1) (Continued from 11/8/05, 12/13/05 & 1/10/06) Construction of twenty-two, eight unit townhouse style condominiums and apartment buildings, a twenty-four foot wide access drive, parking areas, associated grading, subsurface utilities and associated landscaping, a portion of which is located within 100 feet to a resource area and within the 100 year flood plain. Matthew Waterman of LandTech Consultants Inc. represented that applicant along with Julie McNeil of Atty. Douglas Deschenes' office, Attorney for the Trust. Jeff Rider, our consultant, was present also. Matt went over the changes as a result of the last meeting and the first round of consultant review. He referenced a letter from Holmberg & Howe dated January 23, 2006, and addressed each concern. There was a question and answer session and then HJ asked for any abutter comments. There were none. LC asked that we be cc'd on any correspondence with Natural Heritage regarding a separate filing under MESA.

JZ: Motion to continue this hearing to February 14, 2006 at 8:00 P.M.

FZ: 2nd.

Unanimous (6-0).

Other Business:

- ❖ Ron Vieira – **7 Alden Street** – was present regarding an **Enforcement Order** he received as a result of a complaint, addressed at the last meeting, from Stephen McCarthy – 1 Alden St. Mr. McCarthy had said that the pump system that Mr. Vieira uses to prevent the water from freezing around his dock is keeping the whole area from freezing over. He said that a snowmobile went through the thin ice and that it is a safety issue. HJ told Mr. Vieira that he is using a backup pump of a higher horsepower than the ½ hp our OOC allowed. Mr. Vieira defended his use of the “ice eater” pump. He said it is beneficial to the resource area. He also said that he would like to add some fill on his property, as run-off from a neighbor’s property is coming onto his. HJ told him that as his OOC was for the aerator and that he would need to **file a new Notice of Intent** for his pump and any other project(s) on his property that is within 100 feet of the shoreline. Abutter Martha Finn asked what the ruling was. HJ explained there has been no ruling, except that Mr. Vieira shall cease using the pump until he refiles, at which time the Commission will issue or deny permission.
- ❖ LC referred the members to a draft copy of the Commission’s **Town Report** that she has drafted. It is due at the end of February. They should call her with any changes or additions.
- ❖ LC mentioned that **DEP** is holding a pre-construction meeting on **Wynbrook at Tyngsborough**, 169 Westford Road, on February 2nd at 10 A.M. at the site. The members are invited to attend.
- ❖ Update on Mr. Castonguay’s **cleanup** of his junkyard on **Althea Avenue**. Now that he has cleaned out debris, etc along the wetland, he agreed to add hay bales and silt fencing to try to protect the wetland from the rest of the cleanup work.
- ❖ LC told the members she is meeting with Rosemary Cashman, Town Administrator, about the budget, tomorrow at 2 P.M. and on February 22 there will be a **budget meeting** with the Selectmen, if any member(s) would like to join her at either meeting.
- ❖ **Director Determination** for **Nicole Duey – 85 Mascuppic Trail**. The applicant plans to add a 10’x20’ deck 80’ from the lake. The only disturbance would be 6 hand-dug sona tube footings.
JZ: Motion to accept the Director’s Determination for 85 Mascuppic Trail
RS: 2nd
Unanimous (6-0).
- ❖ **Director Determination** for **R&F Land Holding LLC – WhiteTail Estates – Althea Ave**. The applicant has filed an NOI for the next meeting. In the meantime they would like permission to do soil test pits for a detention area.
JK: Motion to accept the Director’s Determination for R&F Land Holding LLC – Althea Ave.
FZ: 2nd
Unanimous (6-0).
- ❖ **Update:** George Trearchis - 78 Willowdale. Last meeting a Director Determination was approved for Mr. Trearchis to put up a galvanized post and rail fence along the bordering vegetated wetland adjacent to Willowdale Road to keep out snowmobiles, etc. He proceeded a little too quickly and put it up with Pressure Treated Posts instead of the galvanized metal. LC

wanted to know how the members felt about that. There was discussion and it was agreed that the total area touched by the posts was so little and the area being less than pristine to begin with, and full of invasive specie plants, they would leave it the way it is.

- ❖ LC read a letter to the Zoning Board of Appeals that she composed. It is in regards to a request for a variance to build a house at Lakeview Avenue and Coburn Rd., behind the one that has just been built. She says there is not the required amount of upland and will not meet our setback requirements.

- ❖ Mr. McCarthy was still present. He asked for clarification of what Mr. Vieira is allowed to do. LC said he could run his ½ horsepower aerator, but not the back up pump.

- ❖ LC told the members that it has come to her attention that comments were made at the last School Committee meeting that suggested that the Commission was ultimately responsible for the failure of the drainage culverts at the new elementary school. *JK said that he would leave the meeting at this point, as his wife serves on the School Committee.* JK excused himself from the rest of the meeting.

FZ: Motion to take a short recess so that the members could watch a tape of that portion of the School Committee meeting.

CH: 2nd.

Unanimous (6-0). (8:15 P.M.)

HJ called the meeting back to order at 8:25 P.M.

LC read a letter to the School Department that clarifies the proceedings associated with the culvert. It summarizes, with dates and events, the process that was involved in permitting the culverts in question. The members signed the letter. She will mail it, with attachments, to Diane Keohane, School Committee Chairperson, Mr. Downing, School Committee Member, Mr. Corey Lambert, Elementary School Building Committee Chairperson, Dave Hawkins, School Superintendent, Town Administrator Rosemary Cashman, Selectmen, DEP, and Town Counsel Zaroulis. HJ requested LC ask Mr. Downing and Mr. Lambert to come to our next meeting.

- ❖ Request for a Partial Certificate of Compliance for 28 Jacques Rd. The OOC was for the whole subdivision. This lot is all set.

JZ: **Motion** to issue a Partial CC for 28 Jacques Rd.

FZ: 2nd.

Unanimous (6-0).

- ❖ Request for a Certificate of Compliance for 8 Industrial Way for the removal of asphalt. This was an “after the fact” filing approved at the last meeting.

FZ: **Motion** to issue a Partial CC for 8 Industrial Way.

JZ: 2nd.

Unanimous (6-0).

- ❖ The members signed the Enforcement Order for 7 Alden Street (the copy for DEP), and the two CC’s just voted on.

- ❖ LG is looking for ConCom support for the demo of Disc Golf that Steve Berthiaume wants to set up on the Hunter Property as soon as weather permits. The Forest & Trails Committee supports it, and the Recreation Committee seems interested.

Minutes 1/24/06 continued

- ❖ HJ said the next F & T meeting will be held at the Sherburne House on the first Wednesday of February at 7 P.M.

JZ: Motion to adjourn.

FZ: 2nd.

Unanimous (6-0).

Meeting adjourned at 8:37 P.M.

Respectfully submitted by Gloria Clancy, Conservation Clerk